IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 8TH JUNE 2006 / 18TH JYAISHTA, 1928

OP.No. 37234 of 2002(G)

PETITIONER:

K.M.JACOB, PROPRIETOR,
NICE RUBBER INDUSTRIES, POOVANTHURUTH,
KOTTAYAM DIST.

BY ADV. SRI.K.M.VARGHESE

RESPONDENTS:

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1. THE EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, PALLOM, KOTTAYAM.

2. THE ASST. EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL MAJOR SECTION, PALLOM, KOTTAYAM.

3. ASSISTANT ENGINEER,
ELECTRICAL SECTION, NATTAKOM.

4. SUB ENGINEER, ELECTRIC SECTION,
NATTAKOM.

BY ADV. SRI.A.SUDHI VASUDEVAN, SC, KSEB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/06/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.37234 OF 2002

ORDER ON CMP.62904/02 IN O.P.37234/02

DISMISSED

8.6.2006 SD/-PIUS C.KURIAKOSE, JUDGEs

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF NOTICE DT.29.11.01

EXT.P2 – TRUE COPY OF LETTER SUBMITTED BY PETR. DT.4.1.02

EXT.P3 – TRUE COPY OF MAHAZAR DT.10.1.02

EXT.P4 – TRUE COPY OF BILL DT.22.1.02 ISSUED BY R2.

EXT.P5 – TRUE COPY OF REPRESENTATION DT.29.1.02 TO R2.

EXT.P6 – TRUE COPY OF JUDGMENT DT.1.2.02 IN OP.3610/02

EXT.P7 – TRUE COPY OF ORDER DELIVERED BY R2 DT.19.3.02

EXT.P8 – TRUE COPY OF MEMORANDUM OF APPEAL DT.25.3.02 BEFORE R1.

EXT.P9 – TRUE COPY OF RECEIPT DT.9.4.02 ISSUED TO PETR.

EXT.P10 – TRUE COPY OF JUDGMENT DT.12.7.02 IN OP.9133/02

EXT.P11 – TRUE COPY OF ORDER DT.30.11.02 PASSED BY R1.

EXT.P12 – TRUE COPY OF REVISED BILL DT.2.12.02 ISSUED BY R2.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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O.P.No.37234 OF 2002

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DATED THIS THE 8TH JUNE, 2006

J U D G M E N T

The proprietor of a small scale industrial unit engaged in production of rubber door mats is the petitioner and he is a consumer of the Kerala State Electricity Board within the jurisdiction of the 1st respondent-Executive Engineer, Electrical Division, Pallom, Kottayam. The other respondents are the Assistant Executive Engineer, the Assistant Engineer and the Sub Engineer concerned. The Writ Petition has been filed seeking quashment of Exts.P4, P7, P11 and P12 and for a declaration that Ext.P1 cannot be characterised as a regulation or condition warranting liability on the consumer and that the petitioner is not liable for the consequences mentioned therein. Ext.P1 is copy of notice dated 29.11.2001 given to the petitioner by the Electricity Board. Ext.P4 is copy of bill dated 22.1.2002 issued by the 2nd respondent to the petitioner for a sum of Rs.31,617/-. Ext.P7 is copy of the order issued by the 2nd respondent on 19.3.2002 to the petitioner. Ext.P11 is copy of the order passed by the 1st respondent in the appeal preferred by the petitioner against the order of the 2nd respondent. Ext.P12 is the revised bill dated 12.12.2002 served on the petitioner on the basis of Ext.P11.

2. Several apparently attractive grounds have been raised by the petitioner in the Memorandum of Original Petition and I have heard the submissions of Mr.K.M.Varghese, counsel for the petitioner and those of Mr.A.Sudhi Vasudevan, Standing Counsel for the Electricity Board.

3. Having regard to the grounds raised and the submissions of Mr.K.M.Varghese, learned counsel for the petitioner and those of Mr.Sudhi Vasudevan, learned Standing Counsel for the Electricity Board, I feel that Ext.P11 requires a second look by the Executive Engineer in the light of the grounds raised in the Original Petition.

4. Accordingly Ext.P11 is quashed and the Executive Engineer is directed to hear the petitioner once again and take a fresh decision on the issue which is seen decided in Ext.P11. This will be done by the Executive Engineer within two months of the petitioner producing a copy of this judgment together with a copy of this Original Petition before him. The interim order will continue till such time as the Executive Engineer takes a fresh decision as ordered above.

The Original Petition is disposed of as above. No costs.

(PIUS C. KURIAKOSE, JUDGE)

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